OCT 2 1 2009

RE: Appeal No. 2009-004999 U.S. Serial No. 08/870,762 Attorncy Docket: 226/104US

UNITED STATES PATENT AND TRADEMARK OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

Appeal No.

2009-004999

Appellants:

Bradford J. Duft et al.

App. No.:

USSN 08/870,762

Art Unit:

1645

Examiner:

DEVI,

Sarvamangala

Filing Date:

June 6, 1997

Atty. Docket:

226/104US

Title:

Methods for Treating Obesity

Confirm No.:

7328

Board of Patent Appeals and Interferences US Patent and Trademark Office PO Box 1450 Alexandria, Virginia 22313-1450

Attn: Chief Clerk of the Board

Withdrawal of Appeal by Filing of an RCE

Dear Sir:

According to MPEP Section 1215.01, Applicant provides notice to the Board of Patent Appeals and Interferences that Applicant filed a Request for Continuing Examination with required fee and submission with new evidence on October 20, 2009, in compliance with 37 CFR 1.114. This RCE filing effectively withdraws the application from appeal in order to reopen prosecution, closing Appeal 2009-004999.

No decision by the Board in this matter is necessary since prosecution is reopened, and the proposed Oral Hearing is no longer necessary. As a consequence of

Certificate of Transmission Under 37 C.F.R. 1.8

I hereby certify that the following listed correspondence in the above-referenced application is being transmitted by facsimile to the fax numbers listed below on this 21st day of October, 2009;

BPAI Hearings Fax No. (571) 273-0299

AND

USPTO Central Fax No. (571) 273-8300

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this action, Applicant believes no response is required to the "Notice of Hearing, Confirmation Required Within Twenty-One Days" mailed 30 September, 2008.

No fees are believed due for this submission. However, if a fee is due, the Commissioner is hereby authorized to charge payment of any fees associated with this communication, to Applicant's Deposit Account No. 010535.

Respectfully submitted,
AMYLIN PHARMACEUTICALS, INC.

Dated: October 21, 2009

Registration No. 36,700

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